

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

---

FRANCIS DONALD COTA,

Petitioner,

v.

LINDA M. METRISH,

Respondent.

---

Case No. 1:05-CV-477

Hon. Richard Alan Enslen

**ORDER**

This matter is before the Court on Petitioner Francis Donald Cota's *pro se* Motion for Certificate of Appealability and Motion to Proceed *In Forma Pauperis* on Appeal. On June 2, 2008, by Final Order this Court dismissed Petitioner's habeas corpus petition with prejudice and denied a certificate of appealability. (Dkt. No. 117.)

Accordingly, since the Court has already determined that a certificate of appealability is not warranted, the Court interprets Petitioner's Motion for Certificate of Appealability as a Motion for Reconsideration of the Court's Final Order. Pursuant to Western District of Michigan Local Civil Rule 7.4(a), reconsideration is appropriate only when the movant "demonstrate[s] a palpable defect by which the Court and the parties have been misled . . . [and] that a different disposition must result from the correction thereof." Petitioner's motion raises no new issues that have not previously been considered and decided. No palpable error has been revealed nor has it been shown that a different disposition should result. Simply put, the previous Final Order remains a proper disposition of the case for the reasons explained therein.

Regarding Petitioner's second Motion, Petitioner has provided the Court with a Certificate of Prisoner Institutional Trust Fund Account Activity as well as an affidavit demonstrating a meager

income from his prison job. The Court concludes that Petitioner is financially unable to pay the costs of appeal and is entitled to proceed *in forma pauperis* without prepayment of fees. *See* 28 U.S.C. § 1915(a)(1); 18 U.S.C. § 3006A(c), (e)(1).

**THEREFORE, IT IS HEREBY ORDERED** Petitioner Francis Donald Cota's Motion for Certificate of Appealability (Dkt. No. 119) is **DENIED**.

**IT IS FURTHER ORDERED** that Petitioner's Motion to Proceed *In Forma Pauperis* on Appeal (Dkt. No. 121) is **GRANTED**.

DATED in Kalamazoo, MI:  
July 7, 2008

/s/ Richard Alan Enslen  
RICHARD ALAN ENSLEN  
SENIOR UNITED STATES DISTRICT JUDGE